

**STATE WATER RESOURCES CONTROL BOARD
BOARD MEETING SESSION – DIVISION OF WATER QUALITY
MAY 5, 2020**

ITEM 3

SUBJECT

CONSIDERATION OF A RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO EXECUTE A MEMORANDUM OF UNDERSTANDING AND INTERAGENCY AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION TO PROVIDE EXPEDITED REVIEW OF TRANSPORTATION PROJECTS, ENVIRONMENTAL TECHNICAL ASSISTANCE, PROJECT CONSULTATIONS, AND COORDINATION SERVICES

DISCUSSION

The State Water Resources Board (State Water Board) and Regional Water Quality Control Boards (Regional Water Boards, and collectively with the State Board, Water Boards) have been processing an increasing number of permits for dredge or fill activities from Caltrans. This trend is expected to continue and increase as funding from the Road Repair and Accountability Act of 2017 (SB1 or Act) is fully implemented. In addition, Caltrans has begun development of an Advanced Mitigation Program. This Act provided \$120 million dollars and authorization for Caltrans to plan and implement advance mitigation solutions for its future transportation projects. A Caltrans fact sheet with more information on this can be found on the [Caltrans website](https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/amp-fact-sheet-a11y.pdf) (<https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/amp-fact-sheet-a11y.pdf>)

In April 2019, the State Water Board adopted the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures). The Procedures authorize the State Water Board to enter into a written agreement with state agencies that act as CEQA lead agency for one of more projects subject to the Procedures, such as Caltrans, to set out alternative procedures and requirements regarding the submission and review of project applications. The Procedures require consideration of such an agreement at a public meeting.

The State Water Board and Caltrans have drafted such a memorandum of understanding (MOU). The MOU covers general coordination activities such as early coordination, data sharing, and dispute resolution. The MOU also clarifies two specific points relative to the analysis of alternatives.

- Caltrans has a long planning process and many projects will have completed environmental review, including coordination with Regional Water Boards years before submission of a permit application. The MOU provides that the Procedures' alternatives analysis requirements will not apply to certain Caltrans projects until January 1, 2022. For these projects, any consideration of avoidance and minimization measures will be at the discretion of the permitting Water Board, according to existing practices in place.

- The MOU establishes a list of transportation project types that would be considered as inherently limited by location and would therefore not require consideration of offsite alternatives in an alternatives analysis. The Water Boards would still have the ability to determine on a case-by-case basis that a specific project is not inherently limited by location.

To support the increased workload from SB1, the State Water Board and Caltrans intend to enter into an Interagency Agreement that will provide for twelve new positions at the State and Regional Water Boards. Ten of those positions will provide expedited review of transportation projects, environmental technical assistance, project consultations, compliance inspections and evaluations, and coordination services. In addition, the Interagency Agreement will provide State Water Board with one supervising senior and one additional staff to focus on assisting Caltrans with the implementation of the Advanced Mitigation Program.

POLICY ISSUE

Should the State Water Resources Control Board authorize the Executive Director to enter into a Memorandum of Understanding and Interagency Agreement with Caltrans?

FISCAL IMPACT

If approved, the Interagency Agreement will establish a reimbursement account for up to 2.8 million per year, sufficient to fund 12 positions.

REGIONAL BOARD IMPACT

If approved the amendment would provide additional resources to the Regional Water Boards to address expected increases in Caltrans permitting.

STAFF RECOMMENDATION

Adopt the proposed Resolution to authorize the Executive Director or Designee to execute a Memorandum of Understanding and Interagency Agreement with Caltrans to meet the requested permitting schedule.